

AMENDED IN SENATE MAY 10, 2006

AMENDED IN SENATE APRIL 18, 2006

SENATE BILL

No. 1422

Introduced by Senator Margett

February 22, 2006

An act to amend Section 12838.1 of the Government Code, to amend Sections 1522.1, 121349.2 and 121349.3 of the Health and Safety Code, to amend Sections 19.8, 148.5, 186.22a, 538e, 667.7, 3041.7, 11106, 11165.7, 11166.01, 11167, 12001, and 12553, and to repeal Section 666.7 of the Penal Code, ~~to amend Section 18631.7 of the Revenue and Taxation Code,~~ and to amend Sections 241.1 and 3150 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1422, as amended, Margett. Public safety: omnibus bill.

Existing law generally regulates public safety.

This bill would make various technical, nonsubstantive changes to provisions related to, among other things, crime, firearms, child welfare, and controlled substance addiction.

Existing law provides that every person who reports to any peace officer, as specified, or to a district attorney or a deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

This bill would also include a report to the Attorney General or to a deputy attorney general in these provisions.

Because this bill would expand the definition of a crime, this bill would impose a state-mandated local program.

Existing law, in a nonsubstantive provision, lists sentence enhancements.

This bill would delete that provision.

Existing law provides that at a hearing concerning the parole release date of a prisoner under a life sentence, the prosecutor of the county from which the prisoner was committed shall be the sole representative of the interests of the people.

This bill would specify that this provision shall apply except in cases in which the Attorney General prosecuted the case at the trial level.

~~Existing law provides that it is a felony punishable by a fine not exceeding \$100,000 or imprisonment for not more than one year for a corporation to willfully fail to file or to fail to include all of the information required to be shown on a filing submitted to the Franchise Tax Board regarding all check-cashing transactions totaling more than \$10,000 in one transaction or two or more transactions for the same person within the calendar year.~~

~~This bill would specify that the term of imprisonment for violation of these provisions is one year in a county jail or 3 years in the state prison.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12838.1 of the Government Code is
2 amended to read:
3 12838.1. (a) There is hereby created within the Department
4 of Corrections and Rehabilitation, under the Chief Deputy
5 Secretary for Adult Operations, the Division of Adult Institutions
6 and the Division of Adult Parole Operations. Each division shall
7 be headed by a division chief, who shall be appointed by the
8 Governor, upon recommendation of the secretary, subject to
9 Senate confirmation, who shall serve at the pleasure of the
10 Governor.

1 (b) The Governor shall, upon recommendation of the
2 secretary, appoint five subordinate officers to the Chief of the
3 Division of Adult Institutions, subject to Senate confirmation,
4 who shall serve at the pleasure of the Governor. Each subordinate
5 officer appointed pursuant to this subdivision shall oversee an
6 identified category of adult institutions, one of which shall be
7 female offender facilities.

8 SEC. 1.5. Section 1522.1 of the Health and Safety Code is
9 amended to read:

10 1522.1. Prior to granting a license to, or otherwise approving,
11 any individual to care for children, the department shall check the
12 Child Abuse Registry pursuant to paragraph (4) of subdivision
13 (b) of Section 11170 of the Penal Code. The Department of
14 Justice shall maintain and continually update an index of reports
15 of child abuse by providers and shall inform the department of
16 subsequent reports received from the child abuse index pursuant
17 to Section 11170 of the Penal Code and the criminal history. The
18 department shall investigate any reports received from the Child
19 Abuse Registry. The investigation shall include, but not be
20 limited to, the review of the investigation report and file prepared
21 by the child protective agency which investigated the child abuse
22 report. The department shall not deny a license based upon a
23 report from the Child Abuse Registry unless child abuse is
24 substantiated.

25 SEC. 2. Section 121349.2 of the Health and Safety Code is
26 amended to read:

27 121349.2. Local government, local public health officials,
28 and law enforcement shall be given the opportunity to comment
29 on clean needle and syringe exchange programs on an annual
30 basis. The public shall be given the opportunity to provide input
31 to local leaders to ensure that any potential adverse impacts on
32 the public welfare of clean needle and syringe exchange
33 programs are addressed and mitigated.

34 SEC. 3. Section 121349.3 of the Health and Safety Code is
35 amended to read:

36 121349.3. The health officer of the participating jurisdiction
37 shall present annually at an open meeting of the board of
38 supervisors or city council a report detailing the status of clean
39 needle and syringe exchange programs including, but not limited
40 to, relevant statistics on blood-borne infections associated with

1 needle sharing activity. Law enforcement, administrators of
2 alcohol and drug treatment programs, other stakeholders, and the
3 public shall be afforded ample opportunity to comment at this
4 annual meeting. The notice to the public shall be sufficient to
5 assure adequate participation in the meeting by the public. This
6 meeting shall be noticed in accordance with all state and local
7 open meeting laws and ordinances, and as local officials deem
8 appropriate.

9 SEC. 4. Section 19.8 of the Penal Code is amended to read:

10 19.8. The following offenses are subject to subdivision (d) of
11 Section 17: Sections 193.8, 330, 415, 485, 555, 652, and 853.7 of
12 this code; subdivision (n) of Section 602 of this code; subdivision
13 (b) of Section 25658 and Sections 21672, 25658.5, 25661, and
14 25662 of the Business and Professions Code; Section 27204 of
15 the Government Code; subdivision (c) of Section 23109 and
16 Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the
17 Vehicle Code, and any other offense which the Legislature
18 makes subject to subdivision (d) of Section 17. Except where a
19 lesser maximum fine is expressly provided for a violation of any
20 of those sections, any violation which is an infraction is
21 punishable by a fine not exceeding two hundred fifty dollars
22 (\$250).

23 Except for the violations enumerated in subdivision (d) of
24 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the
25 Vehicle Code based upon failure to appear, a conviction for any
26 offense made an infraction under subdivision (d) of Section 17 is
27 not grounds for the suspension, revocation, or denial of any
28 license, or for the revocation of probation or parole of the person
29 convicted.

30 This section shall become operative on January 1, 2005.

31 SEC. 5. Section 148.5 of the Penal Code is amended to read:

32 148.5. (a) Every person who reports to any peace officer
33 listed in Section 830.1 or 830.2, or subdivision (a) of Section
34 830.33, the Attorney General, or a deputy attorney general, or a
35 district attorney, or a deputy district attorney that a felony or
36 misdemeanor has been committed, knowing the report to be
37 false, is guilty of a misdemeanor.

38 (b) Every person who reports to any other peace officer, as
39 defined in Chapter 4.5 (commencing with Section 830) of Title 3
40 of Part 2, that a felony or misdemeanor has been committed,

1 knowing the report to be false, is guilty of a misdemeanor if (1)
2 the false information is given while the peace officer is engaged
3 in the performance of his or her duties as a peace officer and (2)
4 the person providing the false information knows or should have
5 known that the person receiving the information is a peace
6 officer.

7 (c) Except as provided in subdivisions (a) and (b), every
8 person who reports to any employee who is assigned to accept
9 reports from citizens, either directly or by telephone, and who is
10 employed by a state or local agency which is designated in
11 Section 830.1, 830.2, subdivision (e) of Section 830.3, Section
12 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or
13 830.4, that a felony or misdemeanor has been committed,
14 knowing the report to be false, is guilty of a misdemeanor if (1)
15 the false information is given while the employee is engaged in
16 the performance of his or her duties as an agency employee and
17 (2) the person providing the false information knows or should
18 have known that the person receiving the information is an
19 agency employee engaged in the performance of the duties
20 described in this subdivision.

21 (d) Every person who makes a report to a grand jury that a
22 felony or misdemeanor has been committed, knowing the report
23 to be false, is guilty of a misdemeanor. This subdivision shall not
24 be construed as prohibiting or precluding a charge of perjury or
25 contempt for any report made under oath in an investigation or
26 proceeding before a grand jury.

27 (e) This section does not apply to reports made by persons
28 who are required by statute to report known or suspected
29 instances of child abuse, dependent adult abuse, or elder abuse.

30 SEC. 5.5. Section 186.22a of the Penal Code is amended to
31 read:

32 186.22a. (a) Every building or place used by members of a
33 criminal street gang for the purpose of the commission of the
34 offenses listed in subdivision (e) of Section 186.22 or any offense
35 involving dangerous or deadly weapons, burglary, or rape, and
36 every building or place wherein or upon which that criminal
37 conduct by gang members takes place, is a nuisance which shall
38 be enjoined, abated, and prevented, and for which damages may
39 be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, except that all of the following shall apply:

(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.

(2) No order of eviction or closure may be entered.

(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.

(4) Suit may not be filed until 30-day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members that were derived from the criminal activity being abated or enjoined. Only persons who knew or should have known of the unlawful acts shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this subdivision, the Attorney General may use, but is not limited to the use of, the testimony of experts to establish damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no

1 governmental entity, shall be abated pursuant to subdivisions (a)
2 and (b).

3 (e) Nothing in this chapter shall preclude any aggrieved person
4 from seeking any other remedy provided by law.

5 (f) (1) Any firearm, ammunition which may be used with the
6 firearm, or any deadly or dangerous weapon which is owned or
7 possessed by a member of a criminal street gang for the purpose
8 of the commission of any of the offenses listed in subdivision (e)
9 of Section 186.22, or the commission of any burglary or rape,
10 may be confiscated by any law enforcement agency or peace
11 officer.

12 (2) In those cases where a law enforcement agency believes
13 that the return of the firearm, ammunition, or deadly weapon
14 confiscated pursuant to this subdivision, is or will be used in
15 criminal street gang activity or that the return of the item would
16 be likely to result in endangering the safety of others, the law
17 enforcement agency shall initiate a petition in the superior court
18 to determine if the item confiscated should be returned or
19 declared a nuisance.

20 (3) No firearm, ammunition, or deadly weapon shall be sold or
21 destroyed unless reasonable notice is given to its lawful owner if
22 his or her identity and address can be reasonably ascertained. The
23 law enforcement agency shall inform the lawful owner, at that
24 person's last known address by registered mail, that he or she has
25 30 days from the date of receipt of the notice to respond to the
26 court clerk to confirm his or her desire for a hearing and that the
27 failure to respond shall result in a default order forfeiting the
28 confiscated firearm, ammunition, or deadly weapon as a
29 nuisance.

30 (4) If the person requests a hearing, the court clerk shall set a
31 hearing no later than 30 days from receipt of that request. The
32 court clerk shall notify the person, the law enforcement agency
33 involved, and the district attorney of the date, time, and place of
34 the hearing.

35 (5) At the hearing, the burden of proof is upon the law
36 enforcement agency or peace officer to show by a preponderance
37 of the evidence that the seized item is or will be used in criminal
38 street gang activity or that return of the item would be likely to
39 result in endangering the safety of others. All returns of firearms
40 shall be subject to Section 12021.3.

1 (6) If the person does not request a hearing within 30 days of
2 the notice or the lawful owner cannot be ascertained, the law
3 enforcement agency may file a petition that the confiscated
4 firearm, ammunition, or deadly weapon be declared a nuisance.
5 If the items are declared to be a nuisance, the law enforcement
6 agency shall dispose of the items as provided in Section 12028.

7 SEC. 6. Section 538e of the Penal Code is amended to read:

8 538e. (a) Any person, other than an officer or member of a
9 fire department, who willfully wears, exhibits, or uses the
10 authorized uniform, insignia, emblem, device, label, certificate,
11 card, or writing of an officer or member of a fire department or a
12 deputy state fire marshal, with the intent of fraudulently
13 impersonating an officer or member of a fire department or the
14 Office of the State Fire Marshal, or of fraudulently inducing the
15 belief that he or she is an officer or member of a fire department
16 or the Office of the State Fire Marshal, is guilty of a
17 misdemeanor.

18 (b) (1) Any person, other than the one who by law is given the
19 authority of an officer or member of a fire department, or a
20 deputy state fire marshal, who willfully wears, exhibits, or uses
21 the badge of a fire department or the Office of the State Fire
22 Marshal with the intent of fraudulently impersonating an officer,
23 or member of a fire department, or a deputy state fire marshal, or
24 of fraudulently inducing the belief that he or she is an officer or
25 member of a fire department, or a deputy state fire marshal, is
26 guilty of a misdemeanor punishable by imprisonment in a county
27 jail not to exceed one year, by a fine not to exceed two thousand
28 dollars (\$2,000), or by both that imprisonment and fine.

29 (2) Any person who willfully wears or uses any badge that
30 falsely purports to be authorized for the use of one who by law is
31 given the authority of an officer or member of a fire department,
32 or a deputy state fire marshal, or which so resembles the
33 authorized badge of an officer or member of a fire department, or
34 a deputy state fire marshal as would deceive any ordinary
35 reasonable person into believing that it is authorized for the use
36 of one who by law is given the authority of an officer or member
37 of a fire department or a deputy state fire marshal, for the
38 purpose of fraudulently impersonating an officer or member of a
39 fire department, or a deputy state fire marshal, or of fraudulently
40 inducing the belief that he or she is an officer or member of a fire

1 department, or a deputy state fire marshal, is guilty of a
2 misdemeanor punishable by imprisonment in a county jail not to
3 exceed one year, by a fine not to exceed two thousand dollars
4 (\$2,000), or by both that imprisonment and fine.

5 (c) Any person who willfully wears, exhibits, or uses, or who
6 willfully makes, sells, loans, gives, or transfers to another, any
7 badge, insignia, emblem, device, or any label, certificate, card, or
8 writing, which falsely purports to be authorized for the use of one
9 who by law is given the authority of an officer, or member of a
10 fire department or a deputy state fire marshal, or which so
11 resembles the authorized badge, insignia, emblem, device, label,
12 certificate, card, or writing of an officer or member of a fire
13 department or a deputy state fire marshal as would deceive an
14 ordinary reasonable person into believing that it is authorized for
15 use by an officer or member of a fire department or a deputy state
16 fire marshal, is guilty of a misdemeanor, except that any person
17 who makes or sells any badge under the circumstances described
18 in this subdivision is guilty of a misdemeanor punishable by a
19 fine not to exceed fifteen thousand dollars (\$15,000).

20 (d) Any person who, for the purpose of selling, leasing or
21 otherwise disposing of merchandise, supplies or equipment used
22 in fire prevention or suppression, falsely represents, in any
23 manner whatsoever, to any other person that he or she is a fire
24 marshal, fire inspector or member of a fire department, or that he
25 or she has the approval, endorsement or authorization of any fire
26 marshal, fire inspector or fire department, or member thereof, is
27 guilty of a misdemeanor.

28 (e) This section shall not apply to either of the following:

29 (1) Use of a badge solely as a prop for a motion picture,
30 television, or video production, or an entertainment or theatrical
31 event.

32 (2) A badge supplied by a recognized employee organization
33 as defined in Section 3501 of the Government Code representing
34 firefighters or a state or international organization to which it is
35 affiliated.

36 SEC. 7. Section 666.7 of the Penal Code is repealed.

37 SEC. 8. Section 667.7 of the Penal Code is amended to read:

38 667.7. (a) Any person convicted of a felony in which the
39 person inflicted great bodily injury as provided in Section
40 12022.53 or 12022.7, or personally used force which was likely

1 to produce great bodily injury, who has served two or more prior
2 separate prison terms as defined in Section 667.5 for the crime of
3 murder; attempted murder; voluntary manslaughter; mayhem;
4 rape by force, violence, or fear of immediate and unlawful bodily
5 injury on the victim or another person; oral copulation by force,
6 violence, duress, menace, or fear of immediate and unlawful
7 bodily injury on the victim or another person; sodomy by force,
8 violence, duress, menace, or fear of immediate and unlawful
9 bodily injury on the victim or another person; lewd acts on a
10 child under the age of 14 years by use of force, violence, duress,
11 menace, or fear of immediate and unlawful bodily injury on the
12 victim or another person; a violation of subdivision (a) of Section
13 289 where the act is accomplished against the victim's will by
14 means of force, violence, duress, menace, or fear of immediate
15 and unlawful bodily injury on the victim or another person;
16 kidnapping as punished in former subdivision (d) of Section 208,
17 or for ransom, extortion, or robbery; robbery involving the use of
18 force or a deadly weapon; carjacking involving the use of a
19 deadly weapon; assault with intent to commit murder; assault
20 with a deadly weapon; assault with a force likely to produce great
21 bodily injury; assault with intent to commit rape, sodomy, oral
22 copulation, sexual penetration in violation of Section 289, or
23 lewd and lascivious acts on a child; arson of a structure; escape
24 or attempted escape by an inmate with force or violence in
25 violation of subdivision (a) of Section 4530, or of Section 4532;
26 exploding a destructive device with intent to murder in violation
27 of Section 12308; exploding a destructive device which causes
28 bodily injury in violation of Section 12309, or mayhem or great
29 bodily injury in violation of Section 12310; exploding a
30 destructive device with intent to injure, intimidate, or terrify, in
31 violation of Section 12303.3; any felony in which the person
32 inflicted great bodily injury as provided in Section 12022.53 or
33 12022.7; or any felony punishable by death or life imprisonment
34 with or without the possibility of parole is a habitual offender and
35 shall be punished as follows:

36 (1) A person who served two prior separate prison terms shall
37 be punished by imprisonment in the state prison for life and shall
38 not be eligible for release on parole for 20 years, or the term
39 determined by the court pursuant to Section 1170 for the
40 underlying conviction, including any enhancement applicable

1 under Chapter 4.5 (commencing with Section 1170) of Title 7 of
2 Part 2, or any period prescribed by Section 190 or 3046,
3 whichever is greatest. Article 2.5 (commencing with Section
4 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any
5 minimum term in a state prison imposed pursuant to this section,
6 but the person shall not otherwise be released on parole prior to
7 that time.

8 (2) Any person convicted of a felony specified in this
9 subdivision who has served three or more prior separate prison
10 terms, as defined in Section 667.5, for the crimes specified in
11 subdivision (a) of this section shall be punished by imprisonment
12 in the state prison for life without the possibility of parole.

13 (b) This section shall not prevent the imposition of the
14 punishment of death or imprisonment for life without the
15 possibility of parole. No prior prison term shall be used for this
16 determination which was served prior to a period of 10 years in
17 which the person remained free of both prison custody and the
18 commission of an offense which results in a felony conviction.
19 As used in this section, a commitment to the Department of the
20 Youth Authority after conviction for a felony shall constitute a
21 prior prison term. The term imposed under this section shall be
22 imposed only if the prior prison terms are alleged under this
23 section in the accusatory pleading, and either admitted by the
24 defendant in open court, or found to be true by the jury trying the
25 issue of guilt or by the court where guilt is established by a plea
26 of guilty or nolo contendere or by a trial by the court sitting
27 without a jury.

28 SEC. 8.5. Section 3041.7 of the Penal Code is amended to
29 read:

30 3041.7. At any hearing for the purpose of setting, postponing,
31 or rescinding a parole release date of a prisoner under a life
32 sentence, the prisoner shall be entitled to be represented by
33 counsel and the provisions of Section 3041.5 shall apply. The
34 Board of Parole Hearings shall provide by rule for the invitation
35 of the prosecutor of the county from which the prisoner was
36 committed, or his representative, to represent the interests of the
37 people at the hearing. The Board of Parole Hearings shall notify
38 the prosecutor and the Attorney General at least 30 days prior to
39 the date of the hearing.

1 Notwithstanding Section 12550 of the Government Code, the
2 prosecutor of the county from which the prisoner was committed,
3 or his representative, who shall not be the Attorney General,
4 except in cases in which the Attorney General prosecuted the
5 case at the trial level, shall be the sole representative of the
6 interests of the people.

7 SEC. 9. Section 11106 of the Penal Code is amended to read:

8 11106. (a) In order to assist in the investigation of crime, the
9 prosecution of civil actions by city attorneys pursuant to
10 paragraph (3) of subdivision (c), the arrest and prosecution of
11 criminals, and the recovery of lost, stolen, or found property, the
12 Attorney General shall keep and properly file a complete record
13 of all copies of fingerprints, copies of licenses to carry firearms
14 issued pursuant to Section 12050, information reported to the
15 Department of Justice pursuant to Section 12053, dealers'
16 records of sales of firearms, reports provided pursuant to Section
17 12072 or 12078, forms provided pursuant to Section 12084, as
18 that section read prior to being repealed by the act that amended
19 this section, reports provided pursuant to Section 12071 that are
20 not dealers' records of sales of firearms, and reports of stolen,
21 lost, found, pledged, or pawned property in any city or county of
22 this state, and shall, upon proper application therefor, furnish this
23 information to the officers referred to in Section 11105.

24 (b) (1) Except as provided in subdivision (d), the Attorney
25 General shall not retain or compile any information from reports
26 filed pursuant to subdivision (a) of Section 12078 for firearms
27 that are not handguns, from forms submitted pursuant to Section
28 12084, as that section read prior to being repealed by the act that
29 amended this section, for firearms that are not handguns, or from
30 dealers' records of sales for firearms that are not handguns. All
31 copies of the forms submitted, or any information received in
32 electronic form, pursuant to Section 12084, as that section read
33 prior to being repealed by the act that amended this section, for
34 firearms that are not handguns, or of the dealers' records of sales
35 for firearms that are not handguns shall be destroyed within five
36 days of the clearance by the Attorney General, unless the
37 purchaser or transferor is ineligible to take possession of the
38 firearm. All copies of the reports filed, or any information
39 received in electronic form, pursuant to subdivision (a) of
40 Section 12078 for firearms that are not handguns shall be

1 destroyed within five days of the receipt by the Attorney General,
2 unless retention is necessary for use in a criminal prosecution.

3 (2) A peace officer, the Attorney General, a Department of
4 Justice employee designated by the Attorney General, or any
5 authorized local law enforcement employee shall not retain or
6 compile any information from a firearms transaction record, as
7 defined in paragraph (5) of subdivision (c) of Section 12071, for
8 firearms that are not handguns unless retention or compilation is
9 necessary for use in a criminal prosecution or in a proceeding to
10 revoke a license issued pursuant to Section 12071.

11 (3) A violation of this subdivision is a misdemeanor.

12 (c) (1) The Attorney General shall permanently keep and
13 properly file and maintain all information reported to the
14 Department of Justice pursuant to Sections 12071, 12072, 12078,
15 12082, and former Section 12084 or any other law, as to
16 handguns and maintain a registry thereof.

17 (2) The registry shall consist of all of the following:

18 (A) The name, address, identification of, place of birth (state
19 or country), complete telephone number, occupation, sex,
20 description, and all legal names and aliases ever used by the
21 owner or person being loaned the particular handgun as listed on
22 the information provided to the department on the Dealers'
23 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),
24 as defined in former Section 12084, or reports made to the
25 department pursuant to Section 12078 or any other law.

26 (B) The name and address of, and other information about, any
27 person (whether a dealer or a private party) from whom the
28 owner acquired or the person being loaned the particular handgun
29 and when the firearm was acquired or loaned as listed on the
30 information provided to the department on the Dealers' Record
31 of Sale, the LEFT, or reports made to the department pursuant to
32 Section 12078 or any other law.

33 (C) Any waiting period exemption applicable to the
34 transaction which resulted in the owner of or the person being
35 loaned the particular handgun acquiring or being loaned that
36 firearm.

37 (D) The manufacturer's name if stamped on the firearm,
38 model name or number if stamped on the firearm, and, if
39 applicable, the serial number, other number (if more than one
40 serial number is stamped on the firearm), caliber, type of firearm,

1 if the firearm is new or used, barrel length, and color of the
2 firearm.

3 (3) Information in the registry referred to in this subdivision
4 shall, upon proper application therefor, be furnished to the
5 officers referred to in Section 11105, to a city attorney
6 prosecuting a civil action, solely for use in prosecuting that civil
7 action and not for any other purpose, or to the person listed in the
8 registry as the owner or person who is listed as being loaned the
9 particular handgun.

10 (4) If any person is listed in the registry as the owner of a
11 firearm through a Dealers' Record of Sale prior to 1979, and the
12 person listed in the registry requests by letter that the Attorney
13 General store and keep the record electronically, as well as in the
14 record's existing photographic, photostatic, or nonerasable
15 optically stored form, the Attorney General shall do so within
16 three working days of receipt of the request. The Attorney
17 General shall, in writing, and as soon as practicable, notify the
18 person requesting electronic storage of the record that the request
19 has been honored as required by this paragraph.

20 (d) (1) Any officer referred to in paragraphs (1) to (6),
21 inclusive, of subdivision (b) of Section 11105 may disseminate
22 the name of the subject of the record, the number of the firearms
23 listed in the record, and the description of any firearm, including
24 the make, model, and caliber, from the record relating to any
25 firearm's sale, transfer, registration, or license record, or any
26 information reported to the Department of Justice pursuant to
27 Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or
28 12285, if the following conditions are met:

29 (A) The subject of the record has been arraigned for a crime in
30 which the victim is a person described in subdivisions (a) to (f),
31 inclusive, of Section 6211 of the Family Code and is being
32 prosecuted or is serving a sentence for the crime, or the subject of
33 the record is the subject of an emergency protective order, a
34 temporary restraining order, or an order after hearing, which is in
35 effect and has been issued by a family court under the Domestic
36 Violence Protection Act set forth in Division 10 (commencing
37 with Section 6200) of the Family Code.

38 (B) The information is disseminated only to the victim of the
39 crime or to the person who has obtained the emergency

1 protective order, the temporary restraining order, or the order
2 after hearing issued by the family court.

3 (C) Whenever a law enforcement officer disseminates the
4 information authorized by this subdivision, that officer or another
5 officer assigned to the case shall immediately provide the victim
6 of the crime with a “Victims of Domestic Violence” card, as
7 specified in subparagraph (H) of paragraph (9) of subdivision (c)
8 of Section 13701.

9 (2) The victim or person to whom information is disseminated
10 pursuant to this subdivision may disclose it as he or she deems
11 necessary to protect himself or herself or another person from
12 bodily harm by the person who is the subject of the record.

13 SEC. 9.5. Section 11165.7 of the Penal Code is amended to
14 read:

15 11165.7. (a) As used in this article, “mandated reporter” is
16 defined as any of the following:

17 (1) A teacher.

18 (2) An instructional aide.

19 (3) A teacher’s aide or teacher’s assistant employed by any
20 public or private school.

21 (4) A classified employee of any public school.

22 (5) An administrative officer or supervisor of child welfare
23 and attendance, or a certificated pupil personnel employee of any
24 public or private school.

25 (6) An administrator of a public or private day camp.

26 (7) An administrator or employee of a public or private youth
27 center, youth recreation program, or youth organization.

28 (8) An administrator or employee of a public or private
29 organization whose duties require direct contact and supervision
30 of children.

31 (9) Any employee of a county office of education or the
32 California Department of Education, whose duties bring the
33 employee into contact with children on a regular basis.

34 (10) A licensee, an administrator, or an employee of a licensed
35 community care or child day care facility.

36 (11) A Head Start program teacher.

37 (12) A licensing worker or licensing evaluator employed by a
38 licensing agency as defined in Section 11165.11.

39 (13) A public assistance worker.

1 (14) An employee of a child care institution, including, but not
2 limited to, foster parents, group home personnel, and personnel
3 of residential care facilities.

4 (15) A social worker, probation officer, or parole officer.

5 (16) An employee of a school district police or security
6 department.

7 (17) Any person who is an administrator or presenter of, or a
8 counselor in, a child abuse prevention program in any public or
9 private school.

10 (18) A district attorney investigator, inspector, or local child
11 support agency caseworker unless the investigator, inspector, or
12 caseworker is working with an attorney appointed pursuant to
13 Section 317 of the Welfare and Institutions Code to represent a
14 minor.

15 (19) A peace officer, as defined in Chapter 4.5 (commencing
16 with Section 830) of Title 3 of Part 2, who is not otherwise
17 described in this section.

18 (20) A firefighter, except for volunteer firefighters.

19 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
20 resident, intern, podiatrist, chiropractor, licensed nurse, dental
21 hygienist, optometrist, marriage, family and child counselor,
22 clinical social worker, or any other person who is currently
23 licensed under Division 2 (commencing with Section 500) of the
24 Business and Professions Code.

25 (22) Any emergency medical technician I or II, paramedic, or
26 other person certified pursuant to Division 2.5 (commencing with
27 Section 1797) of the Health and Safety Code.

28 (23) A psychological assistant registered pursuant to Section
29 2913 of the Business and Professions Code.

30 (24) A marriage, family, and child therapist trainee, as defined
31 in subdivision (c) of Section 4980.03 of the Business and
32 Professions Code.

33 (25) An unlicensed marriage, family, and child therapist intern
34 registered under Section 4980.44 of the Business and Professions
35 Code.

36 (26) A state or county public health employee who treats a
37 minor for venereal disease or any other condition.

38 (27) A coroner.

39 (28) A medical examiner, or any other person who performs
40 autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) “Animal control officer” means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) “Humane society officer” means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) Any employee of any police department, county sheriff’s department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.

(36) A custodial officer as defined in Section 831.5.

(37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

SEC. 10. Section 11166.01 of the Penal Code is amended to read:

11166.01. (a) Except as provided in subdivision (b), any supervisor or administrator who violates paragraph (1) of subdivision (i) of Section 11166 shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Notwithstanding Section 11162 or subdivision (c) of Section 11166, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of this article, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of

1 not more than five thousand dollars (\$5,000), or by both that fine
2 and imprisonment.

3 SEC. 10.5. Section 11167 of the Penal Code is amended to
4 read:

5 11167. (a) Reports of suspected child abuse or neglect
6 pursuant to Section 11166 shall include the name, business
7 address, and telephone number of the mandated reporter; the
8 capacity that makes the person a mandated reporter; and the
9 information that gave rise to the reasonable suspicion of child
10 abuse or neglect and the source or sources of that information. If
11 a report is made, the following information, if known, shall also
12 be included in the report: the child's name, the child's address,
13 present location, and, if applicable, school, grade, and class; the
14 names, addresses, and telephone numbers of the child's parents
15 or guardians; and the name, address, telephone number, and other
16 relevant personal information about the person or persons who
17 might have abused or neglected the child. The mandated reporter
18 shall make a report even if some of this information is not known
19 or is uncertain to him or her.

20 (b) Information relevant to the incident of child abuse or
21 neglect may be given to an investigator from an agency that is
22 investigating the known or suspected case of child abuse or
23 neglect.

24 (c) Information relevant to the incident of child abuse or
25 neglect, including the investigation report and other pertinent
26 materials, may be given to the licensing agency when it is
27 investigating a known or suspected case of child abuse or
28 neglect.

29 (d) (1) The identity of all persons who report under this article
30 shall be confidential and disclosed only among agencies
31 receiving or investigating mandated reports, to the prosecutor in
32 a criminal prosecution or in an action initiated under Section 602
33 of the Welfare and Institutions Code arising from alleged child
34 abuse, or to counsel appointed pursuant to subdivision (c) of
35 Section 317 of the Welfare and Institutions Code, or to the
36 county counsel or prosecutor in a proceeding under Part 4
37 (commencing with Section 7800) of Division 12 of the Family
38 Code or Section 300 of the Welfare and Institutions Code, or to a
39 licensing agency when abuse or neglect in out-of-home care is

1 reasonably suspected, or when those persons waive
2 confidentiality, or by court order.

3 (2) No agency or person listed in this subdivision shall
4 disclose the identity of any person who reports under this article
5 to that person's employer, except with the employee's consent or
6 by court order.

7 (e) Notwithstanding the confidentiality requirements of this
8 section, a representative of a child protective services agency
9 performing an investigation that results from a report of
10 suspected child abuse or neglect made pursuant to Section 11166,
11 at the time of the initial contact with the individual who is subject
12 to the investigation, shall advise the individual of the complaints
13 or allegations against him or her, in a manner that is consistent
14 with laws protecting the identity of the reporter under this article.

15 (f) Persons who may report pursuant to subdivision (g) of
16 Section 11166 are not required to include their names.

17 SEC. 11. Section 12001 of the Penal Code is amended to
18 read:

19 12001. (a) (1) As used in this title, the terms "pistol,"
20 "revolver," and "firearm capable of being concealed upon the
21 person" shall apply to and include any device designed to be used
22 as a weapon, from which is expelled a projectile by the force of
23 any explosion, or other form of combustion, and that has a barrel
24 less than 16 inches in length. These terms also include any device
25 that has a barrel 16 inches or more in length which is designed to
26 be interchanged with a barrel less than 16 inches in length.

27 (2) As used in this title, the term "handgun" means any
28 "pistol," "revolver," or "firearm capable of being concealed upon
29 the person."

30 (b) As used in this title, "firearm" means any device, designed
31 to be used as a weapon, from which is expelled through a barrel,
32 a projectile by the force of any explosion or other form of
33 combustion.

34 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
35 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
36 8101, and 8103 of the Welfare and Institutions Code, the term
37 "firearm" includes the frame or receiver of the weapon.

38 (d) For the purposes of Sections 12025 and 12031, the term
39 "firearm" also shall include any rocket, rocket propelled
40 projectile launcher, or similar device containing any explosive or

1 incendiary material whether or not the device is designed for
2 emergency or distress signaling purposes.

3 (e) For purposes of Sections 12070, 12071, and paragraph (8)
4 of subdivision (a), and subdivisions (b), (c), (d), and (f) of
5 Section 12072, the term “firearm” does not include an unloaded
6 firearm that is defined as an “antique firearm” in Section
7 921(a)(16) of Title 18 of the United States Code.

8 (f) Nothing shall prevent a device defined as a “handgun,”
9 “pistol,” “revolver,” or “firearm capable of being concealed upon
10 the person” from also being found to be a short-barreled shotgun
11 or a short-barreled rifle, as defined in Section 12020.

12 (g) For purposes of Sections 12551 and 12552, the term “BB
13 device” means any instrument that expels a projectile, such as a
14 BB or a pellet, not exceeding 6mm caliber, through the force of
15 air pressure, gas pressure, or spring action, or any spot marker
16 gun.

17 (h) As used in this title, “wholesaler” means any person who is
18 licensed as a dealer pursuant to Chapter 44 (commencing with
19 Section 921) of Title 18 of the United States Code and the
20 regulations issued pursuant thereto who sells, transfers, or
21 assigns firearms, or parts of firearms, to persons who are licensed
22 as manufacturers, importers, or gunsmiths pursuant to Chapter 44
23 (commencing with Section 921) of Title 18 of the United States
24 Code, or persons licensed pursuant to Section 12071, and
25 includes persons who receive finished parts of firearms and
26 assemble them into completed or partially completed firearms in
27 furtherance of that purpose.

28 “Wholesaler” shall not include a manufacturer, importer, or
29 gunsmith who is licensed to engage in those activities pursuant to
30 Chapter 44 (commencing with Section 921) of Title 18 of the
31 United States Code or a person licensed pursuant to Section
32 12071 and the regulations issued pursuant thereto. A wholesaler
33 also does not include those persons dealing exclusively in grips,
34 stocks, and other parts of firearms that are not frames or receivers
35 thereof.

36 (i) As used in Section 12071 or 12072, “application to
37 purchase” means any of the following:

38 (1) The initial completion of the register by the purchaser,
39 transferee, or person being loaned the firearm as required by
40 subdivision (b) of Section 12076.

1 (2) The initial completion and transmission to the department
2 of the record of electronic or telephonic transfer by the dealer on
3 the purchaser, transferee, or person being loaned the firearm as
4 required by subdivision (c) of Section 12076.

5 (j) For purposes of Section 12023, a firearm shall be deemed
6 to be “loaded” whenever both the firearm and the unexpended
7 ammunition capable of being discharged from the firearm are in
8 the immediate possession of the same person.

9 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
10 12072, 12073, 12078, 12101, and 12801 of this code, and
11 Sections 8100, 8101, and 8103 of the Welfare and Institutions
12 Code, notwithstanding the fact that the term “any firearm” may
13 be used in those sections, each firearm or the frame or receiver of
14 the same shall constitute a distinct and separate offense under
15 those sections.

16 (l) For purposes of Section 12020, a violation of that section as
17 to each firearm, weapon, or device enumerated therein shall
18 constitute a distinct and separate offense.

19 (m) Each application that requires any firearms eligibility
20 determination involving the issuance of any license, permit, or
21 certificate pursuant to this title shall include two copies of the
22 applicant’s fingerprints on forms prescribed by the Department
23 of Justice. One copy of the fingerprints may be submitted to the
24 United States Federal Bureau of Investigation.

25 (n) As used in this chapter, a “personal handgun importer”
26 means an individual who meets all of the following criteria:

27 (1) He or she is not a person licensed pursuant to Section
28 12071.

29 (2) He or she is not a licensed manufacturer of firearms
30 pursuant to Chapter 44 (commencing with Section 921) of Title
31 18 of the United States Code.

32 (3) He or she is not a licensed importer of firearms pursuant to
33 Chapter 44 (commencing with Section 921) of Title 18 of the
34 United States Code and the regulations issued pursuant thereto.

35 (4) He or she is the owner of a pistol, revolver, or other
36 firearm capable of being concealed upon the person.

37 (5) He or she acquired that pistol, revolver, or other firearm
38 capable of being concealed upon the person outside of California.

39 (6) He or she moves into this state on or after January 1, 1998,
40 as a resident of this state.

1 (7) He or she intends to possess that pistol, revolver, or other
2 firearm capable of being concealed upon the person within this
3 state on or after January 1, 1998.

4 (8) The pistol, revolver, or other firearm capable of being
5 concealed upon the person was not delivered to him or her by a
6 person licensed pursuant to Section 12071 who delivered that
7 firearm following the procedures set forth in Section 12071 and
8 subdivision (c) of Section 12072.

9 (9) He or she, while a resident of this state, had not previously
10 reported his or her ownership of that pistol, revolver, or other
11 firearm capable of being concealed upon the person to the
12 Department of Justice in a manner prescribed by the department
13 that included information concerning him or her and a
14 description of the firearm.

15 (10) The pistol, revolver, or other firearm capable of being
16 concealed upon the person is not a firearm that is prohibited by
17 subdivision (a) of Section 12020.

18 (11) The pistol, revolver, or other firearm capable of being
19 concealed upon the person is not an assault weapon, as defined in
20 Section 12276 or 12276.1.

21 (12) The pistol, revolver, or other firearm capable of being
22 concealed upon the person is not a machinegun, as defined in
23 Section 12200.

24 (13) The person is 18 years of age or older.

25 (o) For purposes of paragraph (6) of subdivision (n):

26 (1) Except as provided in paragraph (2), residency shall be
27 determined in the same manner as is the case for establishing
28 residency pursuant to Section 12505 of the Vehicle Code.

29 (2) In the case of members of the Armed Forces of the United
30 States, residency shall be deemed to be established when he or
31 she was discharged from active service in this state.

32 (p) As used in this code, “basic firearms safety certificate”
33 means a certificate issued by the Department of Justice pursuant
34 to Article 8 (commencing with Section 12800) of Chapter 6 of
35 Title 2 of Part 4, prior to January 1, 2003.

36 (q) As used in this code, “handgun safety certificate” means a
37 certificate issued by the Department of Justice pursuant to Article
38 8 (commencing with Section 12800) of Chapter 6 of Title 2 of
39 Part 4, as that article is operative on or after January 1, 2003.

(r) As used in this title, “gunsmith” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

SEC. 12. Section 12553 of the Penal Code is amended to read:

12553. (a) (1) Any person who changes, alters, removes, or obliterates any coloration or markings that are required by any applicable state or federal law or regulation, for any imitation firearm, or device described in subdivision (c) of Section 12555, in any way that makes the imitation firearm or device look more like a firearm is guilty of a misdemeanor.

(2) This subdivision shall not apply to a manufacturer, importer, or distributor of imitation firearms or to the lawful use in theatrical productions, including motion pictures, television, and stage productions.

(b) Any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike or imitation firearm as defined by federal law or regulation is guilty of a misdemeanor.

~~SEC. 13. Section 18631.7 of the Revenue and Taxation Code is amended to read:~~

~~18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks totaling more than ten thousand dollars (\$10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file an informational return with the Franchise Tax Board with respect to that transaction or transactions.~~

~~(b) The return required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain both of the following:~~

~~(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary.~~

1 ~~(2) The amount and date of the transaction or transactions.~~

2 ~~(c) For purposes of this section both of the following~~
3 ~~definitions apply:~~

4 ~~(1) “Check casher” means any person as defined under Section~~
5 ~~1789.31 of the Civil Code.~~

6 ~~(2) “Checks” includes warrants, drafts, money orders, and~~
7 ~~other commercial paper serving the same purpose.~~

8 ~~(d) With respect to a person who fails to file the report~~
9 ~~required by this section or fails to include all of the information~~
10 ~~required to be shown on that report, both of the following apply:~~

11 ~~(1) Sections 6721 and 6724 of the Internal Revenue Code, as~~
12 ~~those sections read on January 1, 2005, apply, except that the~~
13 ~~“Franchise Tax Board” is substituted for the “secretary” in each~~
14 ~~place it appears in those sections.~~

15 ~~(2) If the failure was willful, the person shall be punished by a~~
16 ~~fine of not more than twenty-five thousand dollars (\$25,000) or,~~
17 ~~in the case of a corporation, not more than one hundred thousand~~
18 ~~dollars (\$100,000), by imprisonment in a county jail for one year,~~
19 ~~imprisonment in the state prison for 16 months, or two or three~~
20 ~~years, or by both fine and imprisonment, together with the costs~~
21 ~~of prosecution.~~

22 ~~SEC. 14.~~

23 *SEC. 13.* Section 241.1 of the Welfare and Institutions Code
24 is amended to read:

25 241.1. (a) Whenever a minor appears to come within the
26 description of both Section 300 and Section 601 or 602, the
27 county probation department and the child welfare services
28 department shall, pursuant to a jointly developed written protocol
29 described in subdivision (b), initially determine which status will
30 serve the best interests of the minor and the protection of society.
31 The recommendations of both departments shall be presented to
32 the juvenile court with the petition that is filed on behalf of the
33 minor, and the court shall determine which status is appropriate
34 for the minor. Any other juvenile court having jurisdiction over
35 the minor shall receive notice from the court, within five calendar
36 days, of the presentation of the recommendations of the
37 departments. The notice shall include the name of the judge to
38 whom, or the courtroom to which, the recommendations were
39 presented.

1 (b) The probation department and the child welfare services
2 department in each county shall jointly develop a written
3 protocol to ensure appropriate local coordination in the
4 assessment of a minor described in subdivision (a), and the
5 development of recommendations by these departments for
6 consideration by the juvenile court. These protocols shall require,
7 which requirements shall not be limited to, consideration of the
8 nature of the referral, the age of the minor, the prior record of the
9 minor's parents for child abuse, the prior record of the minor for
10 out-of-control or delinquent behavior, the parents' cooperation
11 with the minor's school, the minor's functioning at school, the
12 nature of the minor's home environment, and the records of other
13 agencies which have been involved with the minor and his or her
14 family. The protocols also shall contain provisions for resolution
15 of disagreements between the probation and child welfare
16 services departments regarding the need for dependency or ward
17 status and provisions for determining the circumstances under
18 which a new petition should be filed to change the minor's status.

19 (c) Whenever a minor who is under the jurisdiction of the
20 juvenile court of a county pursuant to Section 300, 601, or 602 is
21 alleged to come within the description of Section 300, 601, or
22 602 by another county, the county probation department or child
23 welfare services department in the county that has jurisdiction
24 under Section 300, 601, or 602 and the county probation
25 department or child welfare services department of the county
26 alleging the minor to be within one of those sections shall
27 initially determine which status will best serve the best interests
28 of the minor and the protection of society. The recommendations
29 of both departments shall be presented to the juvenile court in
30 which the petition is filed on behalf of the minor, and the court
31 shall determine which status is appropriate for the minor. In
32 making their recommendation to the juvenile court, the
33 departments shall conduct an assessment consistent with the
34 requirements of subdivision (b). Any other juvenile court having
35 jurisdiction over the minor shall receive notice from the court in
36 which the petition is filed within five calendar days of the
37 presentation of the recommendations of the departments. The
38 notice shall include the name of the judge to whom, or the
39 courtroom to which, the recommendations were presented.

1 (d) Except as provided in subdivision (e), nothing in this
2 section shall be construed to authorize the filing of a petition or
3 petitions, or the entry of an order by the juvenile court, to make a
4 minor simultaneously both a dependent child and a ward of the
5 court.

6 (e) Notwithstanding the provisions of subdivision (d), the
7 probation department and the child welfare services department,
8 in consultation with the presiding judge of the juvenile court, in
9 any county may create a jointly written protocol to allow the
10 county probation department and the child welfare services
11 department to jointly assess and produce a recommendation that
12 the child be designated as a dual status child, allowing the child
13 to be simultaneously a dependent child and a ward of the court.
14 This protocol shall be signed by the chief probation officer, the
15 director of the county social services agency, and the presiding
16 judge of the juvenile court prior to its implementation. No
17 juvenile court may order that a child is simultaneously a
18 dependent child and a ward of the court pursuant to this
19 subdivision unless and until the required protocol has been
20 created and entered into. This protocol shall include:

21 (1) A description of the process to be used to determine
22 whether the child is eligible to be designated as a dual status
23 child.

24 (2) A description of the procedure by which the probation
25 department and the child welfare services department will assess
26 the necessity for dual status for specified children and the process
27 to make joint recommendations for the court's consideration
28 prior to making a determination under this section. These
29 recommendations shall ensure a seamless transition from
30 wardship to dependency jurisdiction, as appropriate, so that
31 services to the child are not disrupted upon termination of the
32 wardship.

33 (3) A provision for ensuring communication between the
34 judges who hear petitions concerning children for whom
35 dependency jurisdiction has been suspended while they are
36 within the jurisdiction of the juvenile court pursuant to Section
37 601 or 602. A judge may communicate by providing a copy of
38 any reports filed pursuant to Section 727.2 concerning a ward to
39 a court that has jurisdiction over dependency proceedings
40 concerning the child.

1 (4) A plan to collect data in order to evaluate the protocol
2 pursuant to Section 241.2.

3 (5) Counties that exercise the option provided for in this
4 subdivision shall adopt either an “on-hold” system as described
5 in subparagraph (A) or a “lead court/lead agency” system as
6 described in subparagraph (B). In no case shall there be any
7 simultaneous or duplicative case management or services
8 provided by both the county probation department and the child
9 welfare services department. It is the intent of the Legislature that
10 judges, in cases in which more than one judge is involved, shall
11 not issue conflicting orders.

12 (A) In counties in which an on-hold system is adopted, the
13 dependency jurisdiction shall be suspended or put on hold while
14 the child is subject to jurisdiction as a ward of the court. When it
15 appears that termination of the court’s jurisdiction, as established
16 pursuant to Section 601 or 602, is likely and that reunification of
17 the child with his or her parent or guardian would be detrimental
18 to the child, the county probation department and the child
19 welfare services department shall jointly assess and produce a
20 recommendation for the court regarding whether the court’s
21 dependency jurisdiction shall be resumed.

22 (B) In counties in which a lead court/lead agency system is
23 adopted, the protocol shall include a method for identifying
24 which court or agency will be the lead court/lead agency. That
25 court or agency shall be responsible for case management,
26 conducting statutorily mandated court hearings, and submitting
27 court reports.

28 ~~SEC. 15.~~

29 *SEC. 14.* Section 3150 of the Welfare and Institutions Code is
30 amended to read:

31 3150. (a) Commencing July 1, 2005, any reference to the
32 Narcotic Addict Evaluation Authority refers to the Board of
33 Parole Hearings, any reference to the chairperson of the authority
34 is to the chair of the board, and any reference to a member of the
35 authority is to a commissioner of the board.

36 (b) The board shall conduct a full and complete study of the
37 cases of all patients who are certified by the Secretary of the
38 Department of Corrections and Rehabilitation to the board as
39 having recovered from addiction or imminent danger of addiction
40 to the extent that release in an outpatient status is warranted.

1 (c) Members of other similar boards may be assigned to hear
2 cases and make recommendations to the board on these matters.
3 Those recommendations shall be made in accordance with
4 policies established by a majority of the total membership of the
5 board.

6 ~~SEC. 16.~~

7 *SEC. 15.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

16 ~~SEC. 17.~~

17 *SEC. 16.* Any section of any act other than ____ enacted by
18 the Legislature during the 2006 calendar year that takes effect on
19 or before January 1, 2007, and that amends, amends and
20 rennumbers, adds, repeals and adds, or repeals any one or more of
21 the sections affected by this act, shall prevail over this act,
22 whether this act is enacted prior to, or subsequent to, the
23 enactment of that act. The repeal, or repeal and addition, of any
24 article, chapter, part, title, or division of any code by this act shall
25 not become operative if any section of any other act other than
26 ____ that is enacted by the Legislature during the 2006 calendar
27 year and takes effect on or before January 1, 2007, amends,
28 amends and rennumbers, adds, repeals and adds, or repeals any
29 section contained in that article, chapter, part, title, or division.